

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-186

Condo Smarts

Headline: Does strata use employees or contractors

Topic: Employees vs contractors

Publication date: July 16, 2006

Publication: The Province

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Dear Condo Smarts: Our strata is a residential complex, with a golf course, club house and amenities.

We now have a serious problem and are facing serious penalties and fines.

We have a number of employees who have been acting as self-employed contractors to the strata. We recently terminated one employee and are faced with a wrongful dismissal allegation, failure to remit taxes, CPP, and EI deductions.

If the claims go against us we'll be facing over \$50,000 in penalties, not including the status of our other employees and contractors. Isn't it true that if you have a contract agreement with a person, they are not an employee and its their responsibility to file their own taxes and deductions? I think we're in big trouble.

-- Joanne W., Okanagan Valley.

Dear Joanne: The most important question every strata corporation has to determine is how they employ their staff. Are they employees or contractors? A vast number of

variables, including who plans the work to be done, how much the worker is to be paid, the time frame of the work, how the work is to be done, the work location, supervision, and much more will determine whether a person is an employee or contractor. You simply cannot opt out of an employer/employee relationship if the other conditions define that it is an employee relationship.

Even as a self-employed contractor the strata still has to report the self-employed individual's income and provide the self-employed individual copies of his or her T4A slips by the end of the year, if the self-employed individual's income exceeds \$500.

You definitely need the assistance of a taxation/labour relations lawyer, and a qualified accountant to get you through this mess. For all stratas with employees and contractors, make sure your status is clear before trouble begins. The Canada Revenue Checklist is very helpful. Go to: <http://www.cra-arc.gc.ca/> and enter RC4110 into the search for the guide on Employee or Self-Employed.

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